

## **6-19/230.10 Contingent Interest**

To be subject to levy by garnishment a debt or credit must actually exist as an attaching creditor can acquire no greater right in attached property than the debtor has at the time of levy. A debt which is uncertain and contingent in the sense that it may never come due and payable is not subject to garnishment. If the uncertainty, however, only involves the amount of the debt and not the liability itself, the debt is subject to garnishment even though defenses to the debt might diminish or defeat it.

As a consequence, contingent interests, such as future rental payments and funds in escrow when further conditions of escrow must be performed before the escrow will close, are not subject to garnishment. (First Central Coast bank v. Cuesta Title Guarantee Company, 143 CA 3rd 12)

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